

REMARKS

Applicant has carefully reviewed the Application in light of the Office Action dated June 27, 2005. Claims 1-23 are pending and stand rejected. Applicant has amended Claims 1, 9, and 18. Applicant submits that no new matter was added by these amendments. For the reasons provided below, Applicant submits that the pending claims are allowable over the cited references. Therefore, Applicant respectfully requests reconsideration and favorable action in this case.

Double Patenting Rejections

Regarding the terminal disclaimer filed with the Reply to the Office Action mailed December 2, 2005, Applicant has included the proper fee that was omitted when previously filed along with a copy of the terminal disclaimer. Accordingly, Applicant respectfully request that this rejection be withdrawn.

Section 102 Rejections

Claims 1-3, 9, 15, and 17 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 2,662,486 (“*Hillger*”). In addition, Claims 1-3 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 1,230,666 (“*Carden*”). Applicants respectfully submit that both *Hillger* and *Carden* fail to anticipate the rejected claims, as neither discloses each and every limitation of independent claims 1 or 9.

For example, independent Claim 1 recites, “positioning a downhole device having a fluid agitator via a well bore into the fluid of the subsurface cavity, the subsurface cavity having a transverse dimension greater than a transverse dimension of the well bore.” In response to the Applicant’s previous arguments, the Office Action states, “a wellbore falls within the domain of a broad interpretation of the term subsurface cavity.” Office Action, Page 5. Applicant has amended Claim 1 to recite, “the subsurface cavity having a transverse dimension greater than a transverse dimension of the well bore.” Accordingly, *Hillger* and *Carden* fail to anticipate Claim

1, and Applicant respectfully requests the rejections of Claim 1 and its dependent Claims 2 and 3 be withdrawn.

Independent Claim 9 has been amended to recite a limitation that is similar, although not identical, to the limitation of Claim 1 discussed above. Therefore, *Hillger* and *Carden* fail to anticipate Claim 9 for reasons analogous to those discussed above in connection with Claim 1. Accordingly, Applicant respectfully requests the rejections of claim 9 and its dependent claims 15 and 17 be withdrawn.

Section 103 Rejections

Claims 4, 8 and 21 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Carden* in view of U.S. Patent No. 3,378,069 (“*Fields*”). In addition, Claims 9, 10, and 14-17 are rejected under 35 U.S.C. § 103(a) as being unpatentable over *Carden* in view of *Hillger* and *Fields*. As discussed above, *Hillger* and *Carden* fail to anticipate independent Claims 1 and 9. *Fields* fails to disclose the missing elements discussed above with respect to Claims 1 and 9. In fact, like *Hillger* and *Carden*, *Fields* merely discloses inserting its agitator members 188 in a well bore. Col. 2, Lines 50-52; Col. 12, Lines 32-37. Thus, the combination of *Carden* and *Hillger* or *Fields* fails to render Claims 4, 8, 9, 10, and 14-17 obvious, and Applicant respectfully requests the rejections to the claims be withdrawn.

Allowable Subject Matter

Applicant notes and appreciates the Examiner's indication that Claims 22 and 23 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. However, Claims 22 and 23 depend from one of Independent Claims 9, and 18, which Applicant respectfully submits are allowable. Accordingly, Applicants have not so amended Claims 22 and 23 at this time.

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Information Disclosure Statement

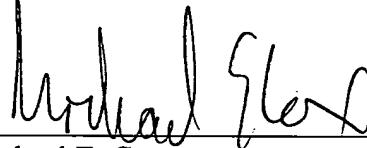
The Information Disclosure Statement submitted by Applicant on December 1, 2004, included one page of Form PTO-1449 listing references. PAIR reflects the Information Disclosure Statement and Form PTO-1449 were received and entered into the application file; however, Applicant's records do not indicate that it has received a returned initialed copy of the Form PTO-1449. Applicant has included a copy of the Form PTO-1449, and requests the Form PTO-1449 be initialed to indicate all references have been considered.

CONCLUSION

Enclosed is a \$130 check for the required Terminal Disclaimer (copy enclosed) fee which was filed March 2, 2005. Please apply any deficiencies or any other required fees or any credits to deposit account 06-1050, referencing the attorney docket number shown above.

Respectfully submitted,

Date: 5/19/05



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